IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 12776 of 2007

Date of decision: 20.08.2007

Jagdish Lal and others .....Petitioners

Versus

Punjab and Sind Bank .....Respondent

Coram: Hon'ble Mr. Justice M.M.Kumar
Hon'ble Mr. Justice Ajay Kumar Mittal

Present: Ms. Jigyasa Tanwar, Advocate,
for the petitioners.

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M.M.Kumar, J.

The prayer made by the petitioners in this writ petition filed under Articles 226/227 of the Constitution is for quashing notice dated 02.06.2007 (Annexure P-4) issued under Section 13 (2) of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for brevity the 'Act') and the order dated 19.02.2007 (Annexure P-3) passed by the Debts Recovery Tribunal, Chandigarh.

The petitioners have to file objections before such a prayer is to be entertained. A notice given under Section 13 (2) can be objected to by the petitioners by filing objections under Section 13 (3A) of the Act, which has been added with effect from 11.11.2004. Those objections are required to be decided by the concerned authority within one week from its receipt and reasons of rejecting such objections are required to be communicated. It is thereafter that the financial institution might decide to issue notice under Section 13(4) of the Act for taking possession of mortgage assets or the management of business belonging to the borrowers and then proceed in accordance with law within or the

aforementioned period. Thereafter, the remedy of appeal under Section 17 would be available to the petitioners before the Debt Recovery Tribunal.

A perusal of the averments made in the petition does not disclose the fact if any of such steps have been taken by the petitioners. The whole procedure and forums sought to be by-passed by the petitioners which is impermissible. Likewise the order dated 19.02.2007 passed by the Tribunal vacating the stay order earlier granted. In view of that order, the appeal is not sustainable.

In view of the above, we dismiss the writ petition as there is no cause of action accrue to the petitioners to approach this Court.

(M.M.KUMAR)
JUDGE

(AJAY KUMAR MITTAL)
JUDGE

August 20, 2007
pj